

1
2
3
4
5
6
7
8
9 UNITED STATES DISTRICT COURT
10 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

11 DOMINGO GERMAN MACAVILCA,

12 Plaintiff,

13 v.

14 ALYSSA McCLUSKEY *et al.*,

15 Defendants.
16

Case No. C08-5263RJB/JKA

REPORT AND
RECOMMENDATION

NOTED FOR:

August 29, 2008

17
18 This Civil Rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28
19 U.S.C. § 636(b)(1)(B). The court has twice informed plaintiff that he may not challenge the propriety of
20 deportation decisions and action in a civil rights action. In the original complaint plaintiff sought criminal
21 charges against the named defendants, challenged ongoing deportation process, and named a defendant
22 solely in his capacity as a supervisor (Dkt # 5). The defects in the complaint were explained, and the court
23 ordered plaintiff to file an amended complaint. The amended complaint contained many of the same errors
24 and violated Fed. R. Civ. P. 8 (a). See, (Dkt. # 7).

25 A second order to amend was entered (Dkt # 8). In response, plaintiff has moved to consolidate
26 this action with another action that he does not properly identify (Dkt. # 9). He continues to attempt to
27 challenge his ongoing deportation proceeding. The court has given plaintiff a more than adequate chance
28 to file a proper complaint and now recommends this action be dismissed for failure to comply with the

1 courts orders to amend. This dismissal would be for failure to comply with a court order and would be
2 **DISMISSAL WITHOUT PREJUDICE** as the court does not reach the merits of plaintiff's claims.

3 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure, the
4 parties shall have ten (10) days from service of this Report to file written objections. *See also* Fed. R. Civ.
5 P. 6. Failure to file objections will result in a waiver of those objections for purposes of appeal. Thomas v.
6 Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the clerk is directed to
7 set the matter for consideration on **August 29, 2008**, as noted in the caption.

8
9 DATED this 11 day of August, 2008.

10
11 /S/ J. Kelley Arnold
12 J. Kelley Arnold
13 United States Magistrate Judge
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28